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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76622; File No. SR-CBOE-2015-089)

December 11, 2015

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change Relating to Complex Orders as Modified by Amendment No. 1

I. Introduction

On October 13, 2015, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) amend the rule provisions regarding the initiation of a complex order auction (“COA”), (2) add rule provisions regarding the impact of certain incoming orders and changes in the leg markets on an ongoing COA, and (3) update the rule text regarding who can submit complex orders. On October 26, 2015, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on November 2, 2015.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 6.53C and Interpretation and Policy .04 regarding the initiation of a COA. Currently, Trading Permit Holders and PAR operators must

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 76273 (October 27, 2015), 80 FR 67457 (“Notice”).

affirmatively request that their incoming two-legged COA-eligible orders be COA'd.⁴ The Exchange proposes to amend CBOE Rule 6.53C(d)(ii) to provide that such COA-eligible orders (including orders submitted for electronic processing from PAR) be COA'd by default.⁵ Under the proposed rule, Trading Permit Holders would be permitted to request that a COA-eligible order with two legs not COA (referred to as a "do-not-COA" request) on an order-by-order basis.⁶ The Exchange believes that allowing Trading Permit Holders to make a "do-not-COA" request on an order-by-order basis will better allow them to make decisions regarding the handling of their orders based on market conditions at the time they submit their orders.

A PAR operator will not be permitted to override a Trading Permit Holder's "do-not-COA" order request; such orders, therefore, will enter the Complex Order Book ("COB").⁷ An order with a "do-not-COA" request, however, would still be COA'd after it has rested on the COB pursuant to Interpretation and Policy .04.⁸

The Exchange notes that an order with a "do-not-COA" request will still have execution opportunities.⁹ The Exchange explains that a "do-not-COA" order may execute automatically upon entry into the System against the leg markets or complex orders on the COB to the extent marketable (in accordance with allocation rules set forth in Rule 6.53C).¹⁰ Further, the Exchange

⁴ See Notice, supra 3, at 67457.

⁵ Id. The Exchange represents that all Trading Permit Holders have requested that all of their COA-eligible orders with two legs process through COA upon entry into the System. Id.

⁶ Id.

⁷ Id. In light of this proposed change, the Exchange proposes to delete the language in Interpretation and Policy .04(a) that indicates Trading Permit Holders may request that complex orders be COA'd on a class-by-class basis, as it is no longer necessary. Id.

⁸ Id. at 67458.

⁹ Id.

¹⁰ Id.

notes that an order on the opposite side of, and marketable against, a COA-eligible order may trade against the COA-eligible order if the System receives the order while a COA is ongoing.¹¹

Second, the Exchange proposes to add subparagraphs 6.53C(d)(viii)(4) and (5) to CBOE Rule 6.53C to describe additional circumstances that will cause a COA to end early.¹² Proposed subparagraph (d)(viii)(4) will provide that if an order with a “do-not-COA” request or an order that is not COA-eligible is received prior to the expiration of the Response Time Interval for the original COA and is on the same side of the market and at a price better than or equal to the starting price, then the original COA will end.¹³ Proposed subparagraph (d)(viii)(5) will provide that if the leg markets were not marketable against a COA-eligible order when the order entered the System (and thus prior to the initiation of a COA) but became marketable with the COA-eligible order prior to the expiration of the Response Time Interval, it will cause the COA to end.¹⁴ The Exchange believes that these provisions prevent an order that was entered after the initiation of a COA from trading ahead of an order with the same price that may have executed or entered the COB if it did not COA. Similarly, the Exchange believes it is fair for a COA-eligible order that was entered at a better price than an order that was resting in the COB prior to initiation of the COA to execute against leg markets that become marketable against the COA-eligible order and resting order during the COA, because the Trading Permit Holder who entered the COA-eligible order was willing to pay a better price than that of the resting order.¹⁵

¹¹ Id.

¹² Id. The proposed rule change makes corresponding changes to the heading and introductory paragraph of subparagraph (d)(viii). Id.

¹³ Id. at 67458-9.

¹⁴ Id.

¹⁵ Id. at 67460.

Third, the Exchange proposes to amend CBOE Rule 6.53C(c)(ii)(3) and Interpretation and Policy .06(c) to provide that all Trading Permit Holders and PAR Officials may submit orders or quotes to trade against orders in the COB, as opposed to market participants,¹⁶ as the Rule currently states.¹⁷ In addition, the Exchange proposes to amend Rule 6.53C(c)(ii)(3) to provide that order and quote types (not just quote types) not eligible to rest or trade against the COB will be automatically cancelled.¹⁸

Finally, the Exchange proposes to make technical and other nonsubstantive changes, which are described in the Notice.¹⁹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,²¹ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and

¹⁶ Id. at 67459. CBOE Rules 6.45A and 6.45B define market participants as Market-Makers, Designated Primary Market-Makers with an appointment in the subject class, and floor brokers and PAR Officials representing orders in the trading crowd. The Exchange explains that Trading Permit Holders and PAR Officials as a group is larger than market participants as a group, as the term market participants does not include other types of Trading Permit Holders (such as electronic proprietary traders or brokers submitting electronic orders on behalf of customers from off of the trading floor). Id.

¹⁷ Id.

¹⁸ Id. at 67460. The Exchange notes that first several sentences of CBOE Rule 6.53C(c)(ii)(3) reference both orders and quotes eligible to rest on the COB. The Exchange intended for Rule to provide that both orders and quotes that are not eligible to rest on the COB be cancelled. Id.

¹⁹ Id. at 64759.

²⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²¹ 15 U.S.C. 78f(b)(5).

practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that it is reasonable for CBOE to require that incoming two-legged COA-eligible orders be COA'd by default unless a Trading Permit Holder requests, on an order-by-order basis, that such orders not COA. The Commission notes that, should a Trading Permit Holder not wish its orders to be COA'd, the proposed rule will allow the Trading Permit Holder to request that its orders not be COA'd on an order-by-order basis. In addition, the Commission notes that the rules of another options exchange provide that certain complex orders be routed to a complex order auction unless a member designates that such orders not initiate a complex order auction on that exchange.²²

The Commission also believes that it is reasonable for the Exchange to add new provisions regarding how incoming orders with “do-not-COA” requests or that are not COA-eligible, as well as how changes in the leg markets, may impact ongoing COAs. Such additions enhance the description of current COA functionality and the circumstances that may cause a COA to end early to help ensure investors understand how “do-not-COA” orders may impact a COA. As noted above, these rules provide that if entry of a “do-not-COA” order causes a COA to end, any executions that occur following the COA will occur in accordance with allocation principles in place, subject to an exception that the original COA-eligible order will receive time priority.

²² See NASDAQ OMX PHLX LLC (“PHLX”) Rule 1080, Commentary .07(a)(viii) and (e) (describing the complex order live auction (“COLA”) process and “do not auction” orders).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-CBOE-2015-089), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Robert W. Errett
Deputy Secretary

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

